

RHEUBIN MCGHEE TAYLOR  
COUNTY ATTORNEY

DAVID W. NORTON  
ASSISTANT COUNTY ATTORNEY

MARY NEILL SOUTHERLAND  
ASSISTANT COUNTY ATTORNEY

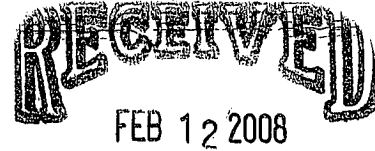


**HAMILTON COUNTY GOVERNMENT  
OFFICE OF THE COUNTY ATTORNEY**

CLAUDE T. RAMSEY  
COUNTY MAYOR  
BOARD OF COMMISSIONERS  
CURTIS D. ADAMS  
GREG BECK  
JOHN ALLEN BROOKS  
RICHARD CASAVANT  
JIM M. COPPINGER  
LARRY L. HENRY  
BILL HULLANDER  
WARREN MACKEY  
FRED R. SKILLERN

February 8, 2008

Appeal of Enforcement Order  
TDEC-OGC  
20<sup>th</sup> Floor L&C Tower  
401 Church Street  
Nashville, TN 37243-1548



PT OF ENVIRONMENT AND CONSERVATION  
OFFICE OF GENERAL COUNSEL

**Re: Hamilton County Board of Education and Rentenbach Contractors, Inc.  
Division of Water Pollution Control  
Case No. WPC07-0277**

Dear Sir or Madam:

Enclosed please find Hamilton County's *Petition for Review of Director's Order* and accompanying exhibits. Please file-stamp the copy and return to me in the enclosed envelope.

If you have any questions, please contact Neill Southerland at 423/209-6150.

Very truly yours,

A handwritten signature in cursive script that reads "Sharon M. Milling".

Sharon M. Milling  
Legal Assistant

:smm

Enclosures



5. At a meeting later that same day, TDEC, the County, Rentenbach and others agreed to cease drilling operations; to make adjustments to the bottom orifice of the outlet from Temporary Sediment Basin #1; to include flocculent; and make other changes to the erosion control measures.

6. TDEC issued a Notice of Violation (NOV) to the BOE, some fourteen (14) days later.

7. The Director's Order essentially reiterated the NOV and included dates for completion of the same on January 10, 2008.

8. On January 4 and 5, 2008, some five (5) days prior to the Director's Order, the subcontractors for Rentenbach removed sediment from Hurricane Creek from the outlet of the Temporary Sediment Basin #1 to the beaver dam. (See dated photographs attached as Exhibit A). The mud slurry was also removed at that time.

9. TDEC officials conducted a site visit on January 7, 2008, and observed the improved condition in Hurricane Creek. In other words five days prior to the issuance of the Director's Order, the Respondents had taken corrective action as contemplated in the future Order.

10. Floccuants were in use on the site by December 17, 2007 as required by the Director's Order of January 10, 2008, some twenty four (24) days later. (Invoices to Rentenbach from Erosion Control Specialists, LLC. dated December 17, 2007 and January 3, 2008. attached as Exhibit B)

11. On January 7, 2008, Rentenbach submitted to TDEC a detailed plan including a schedule of inspections until the drilling was completed. (See the letter from Michael Powell Rentenbach to Jennifer Innes TDEC dated January 7, 2008. attached as Exhibit C)

12. The retrofitting of the bottom orifice of the outlet to Sediment Basin #1 was initiated by Rentenbach as evidenced by the photographs (Exhibit A) and by the site plans (Attached as Exhibit D) prior to the Director's January 10, 2008, Order and Assessment.

13. The assessment in the Director's Order would have an adverse effect on self-reporting and would deter future compliance with water quality. In the case at hand, the County self-reported the violation, agreed to an action of remediation, and has completed the same.

14. The assessment in the Director's Order penalizes the County for taking the initiative and performing remedial action prior to the NOV in the case of flocculant usage and retrofitting the bottom orifice of the outlet from Temporary Sediment Basin #1.

15. The assessment does not take into consideration the speed with which the County acted to remediate the event when brought to its attention. Nor does it take into consideration the fact that these actions took place during a period of four holidays (Christmas Eve, Christmas Day, New Years Eve, and New Years' Day).

Having set forth the grounds and reasons for objecting to the assessment and reasons for remittitur of the assessment, the County respectfully prays for an Order waiving the penalties previously assessed, or, in the alternative, a hearing of this matter.

Respectfully submitted,

HAMILTON COUNTY ATTORNEY'S OFFICE



Mary Neill Southerland, BPR No. 1583

625 Georgia Avenue

Room 204 County Courthouse

Chattanooga, TN 37402

Phone: 423/209-6150

Fax: 423/209-6151

### CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of the foregoing has been served upon all parties or counsel for all parties at interest in this case by hand-delivering a copy of said document or by placing a copy of said document in the United States Mail addressed to said parties or counsel at their last known address listed below with sufficient postage thereon to carry the same to its destination.

Joe Sanders, Esq.  
Office of General Counsel  
401 Church Street  
L & C Towers, 20<sup>th</sup> Floor  
Nashville, TN 37243

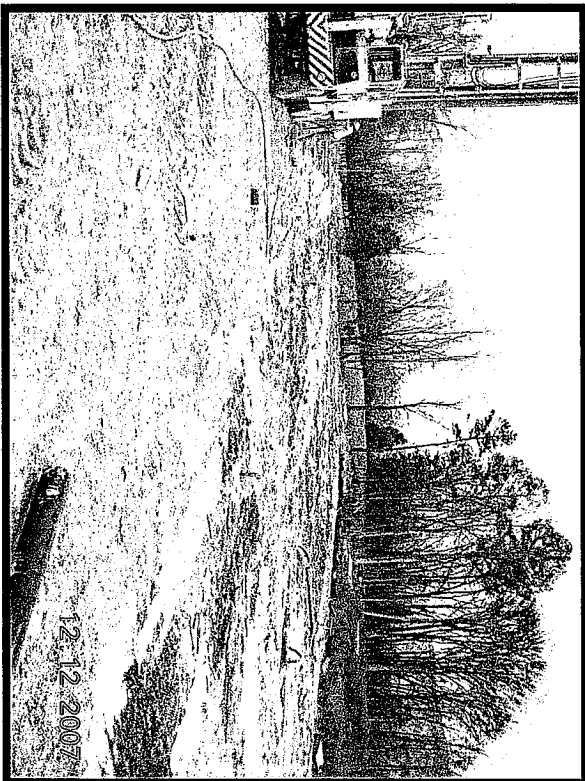
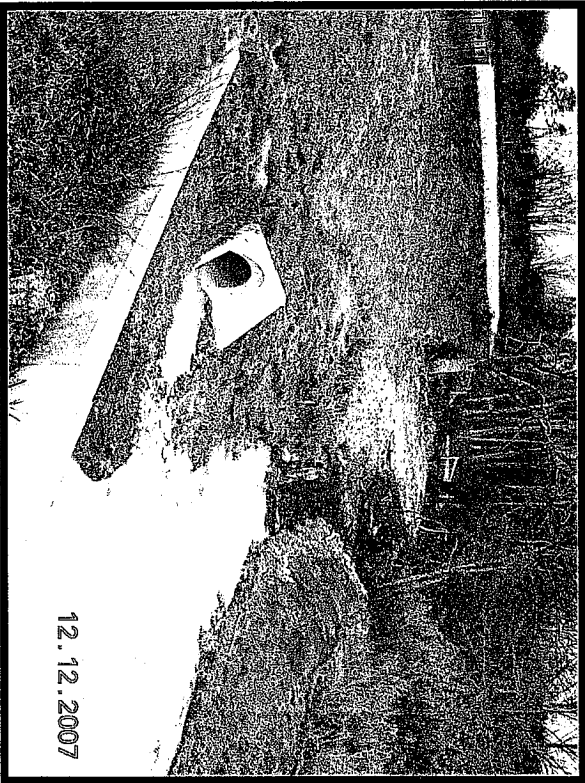
Michael Powell, Asst. Vice Presidency  
Rentenbach Constructors, Inc.  
P.O. Box 11087  
Knoxville, TN 37939-1087

D. Scott Bennett, Esq.  
Leitner, Williams, Dooley & Napolitan  
801 Broad Street, Suite 300  
Chattanooga, TN 37402

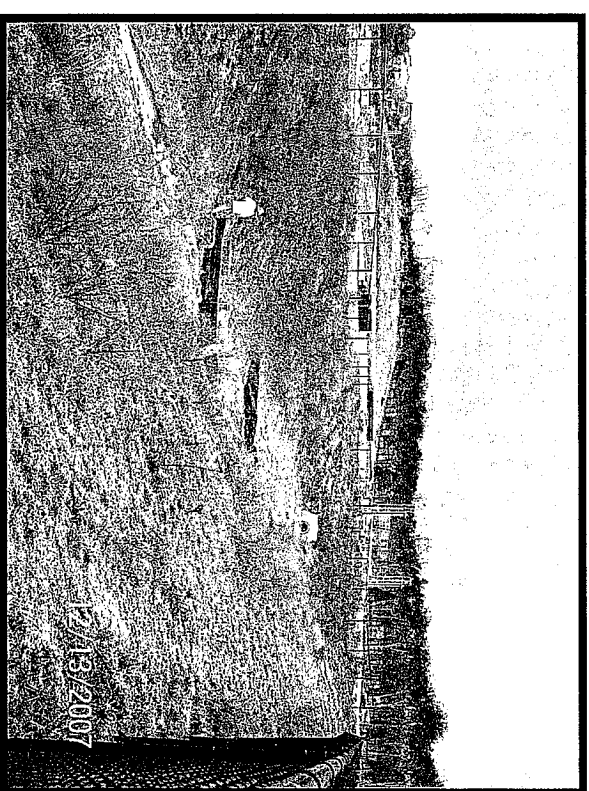
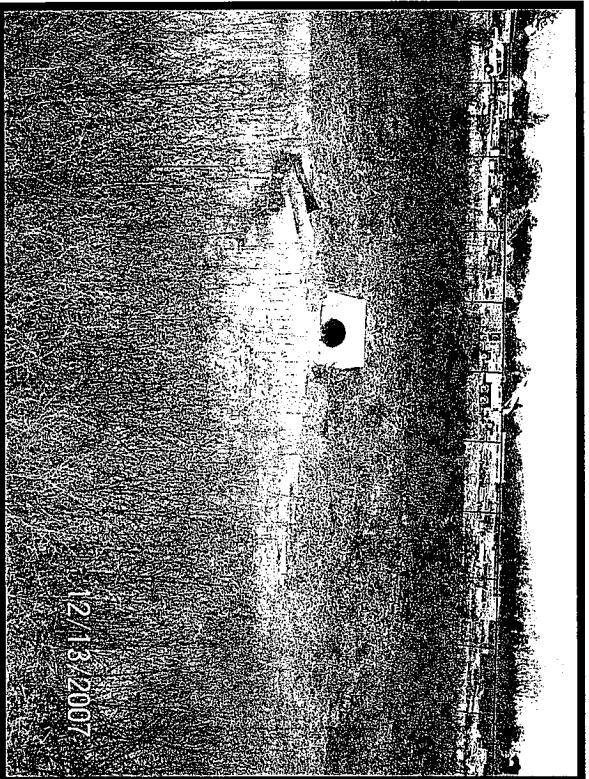
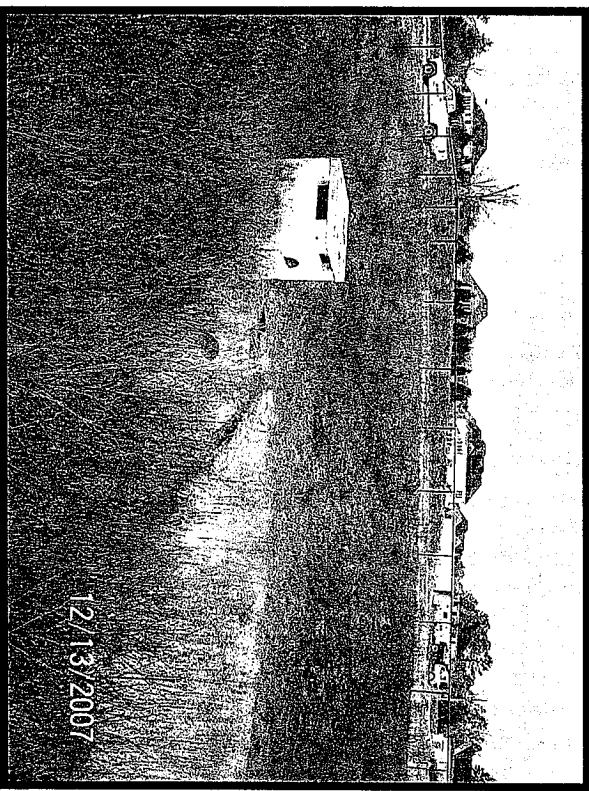
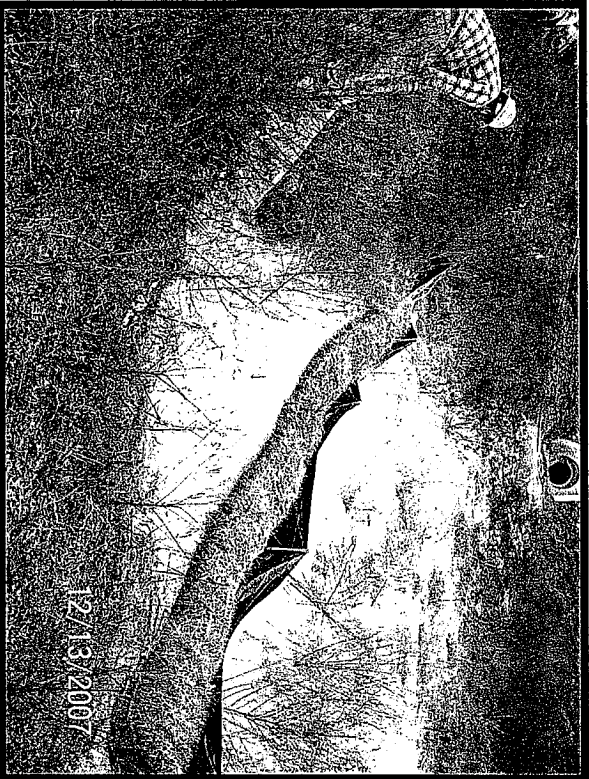
This the 8<sup>th</sup> day of February, 2008.

M. N. Southland

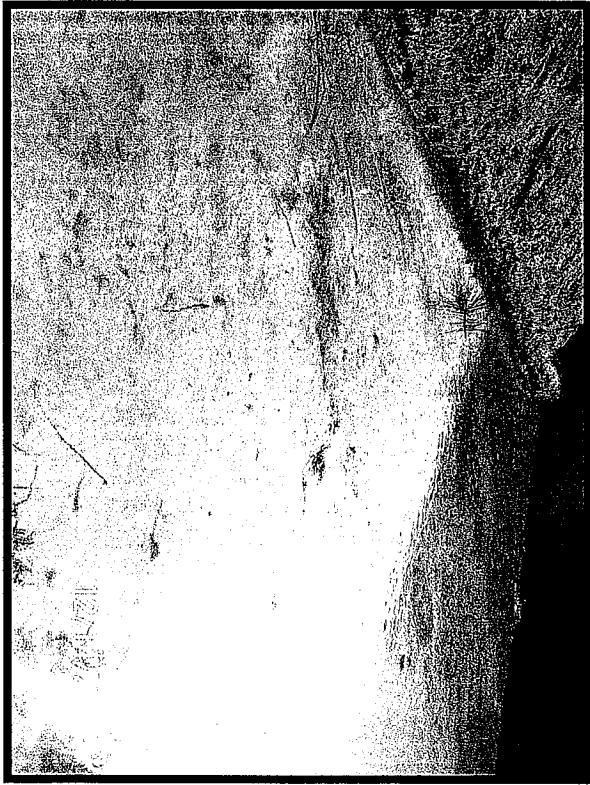
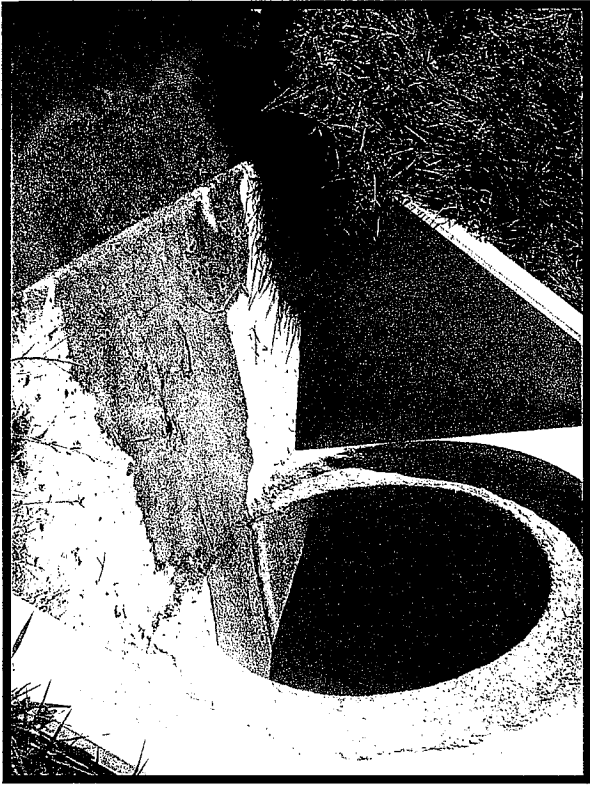
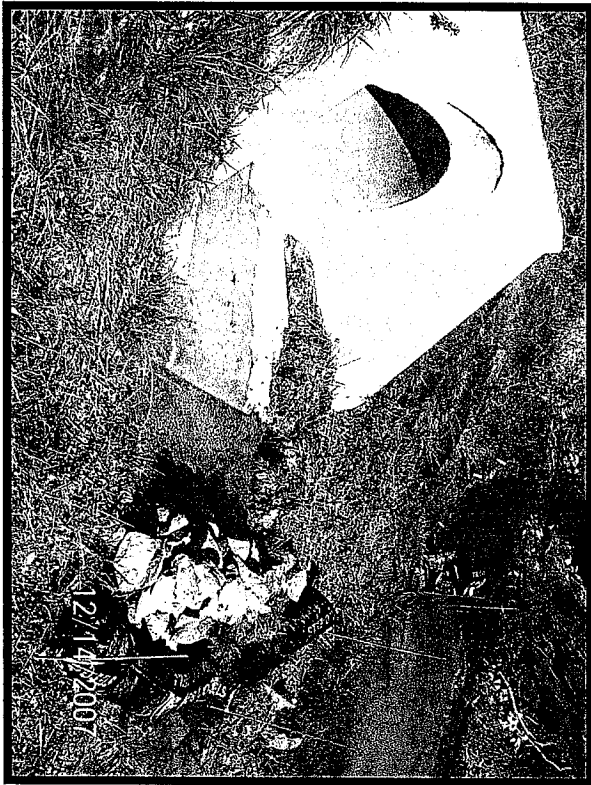
December 12, 2007  
Apison Middle/High School



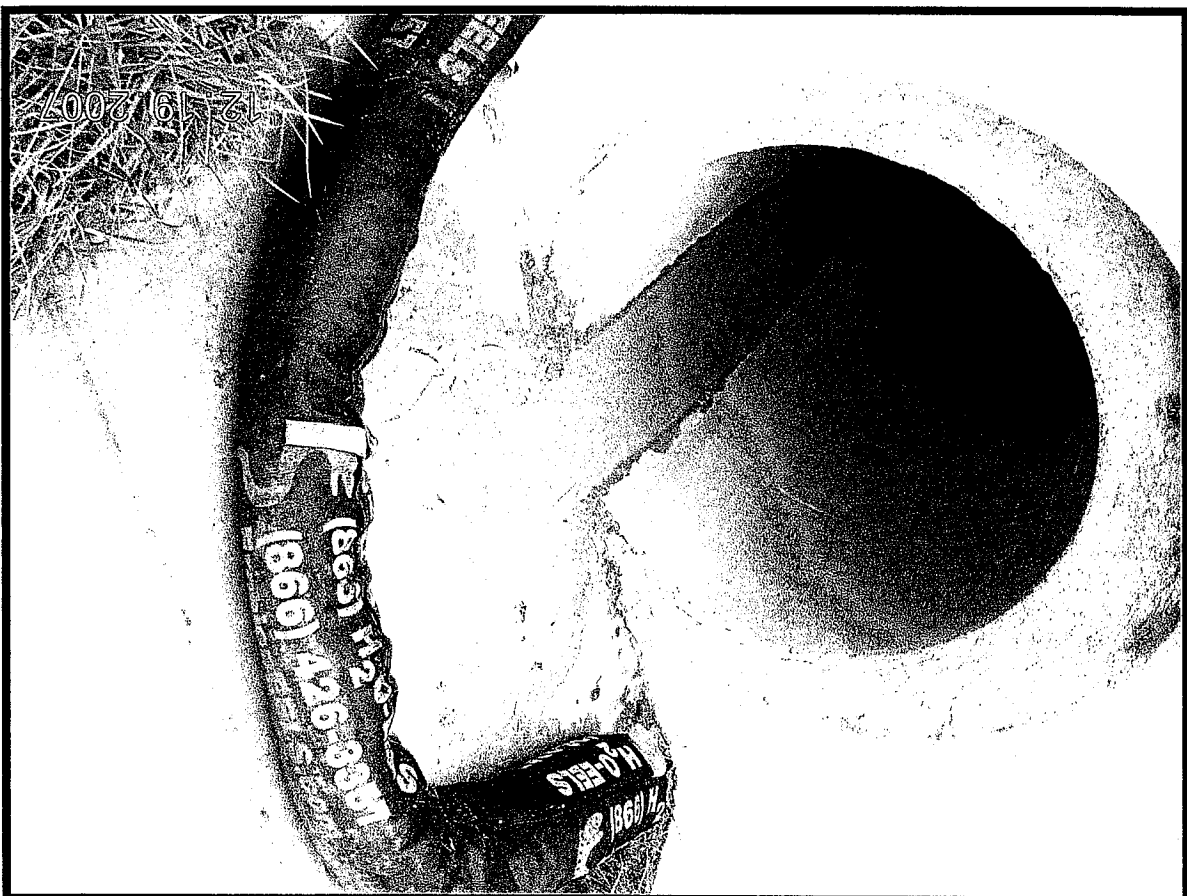
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Apison Middle/High School



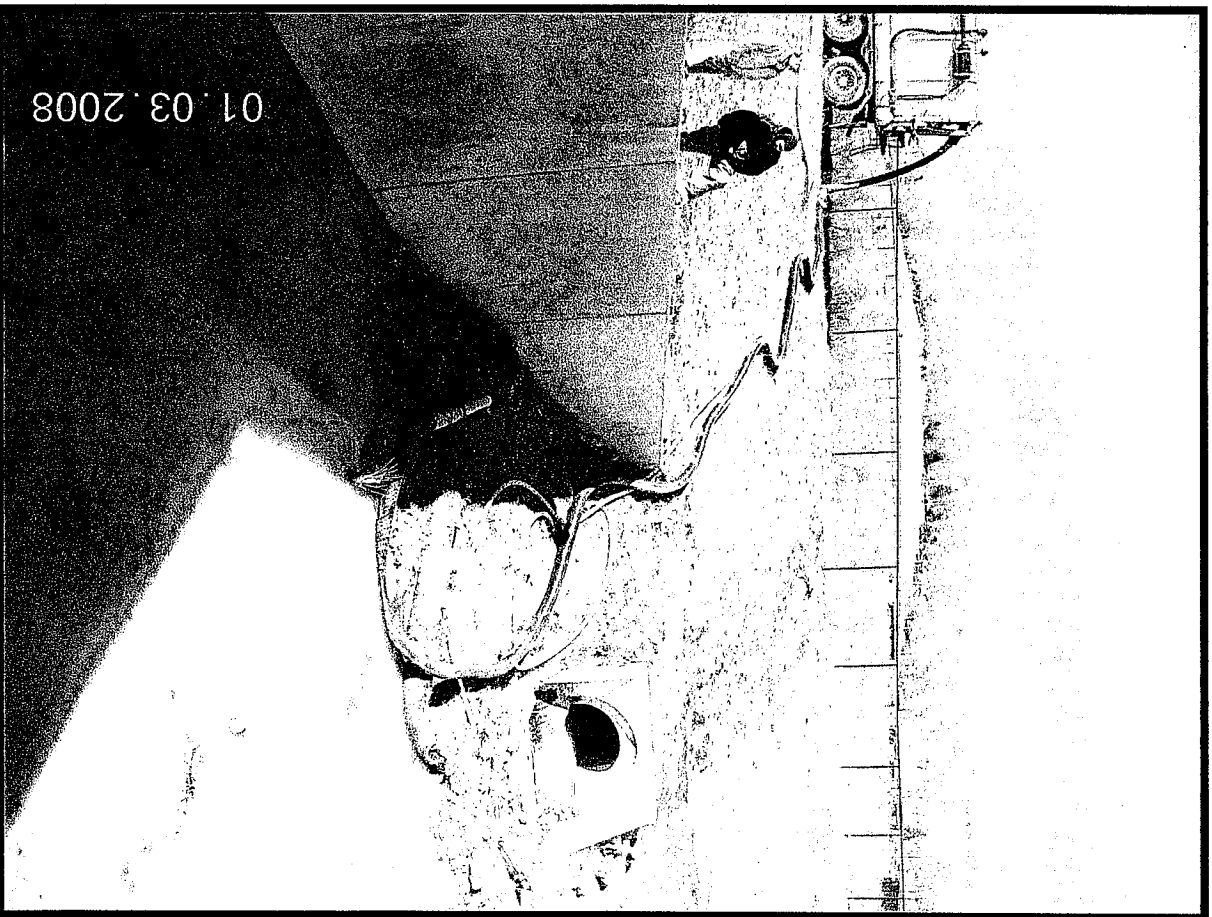
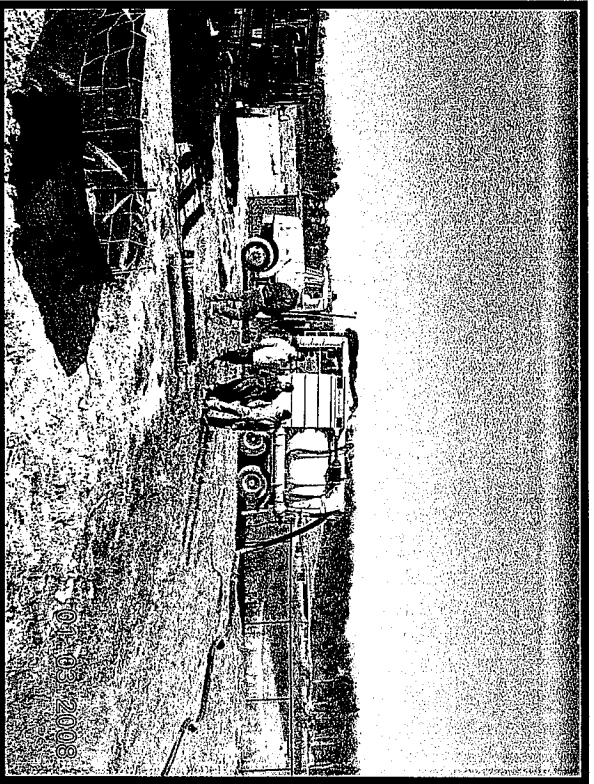
December 14, 2007  
Apison Middle/High School



December 19, 2007  
Apison Middle/High School



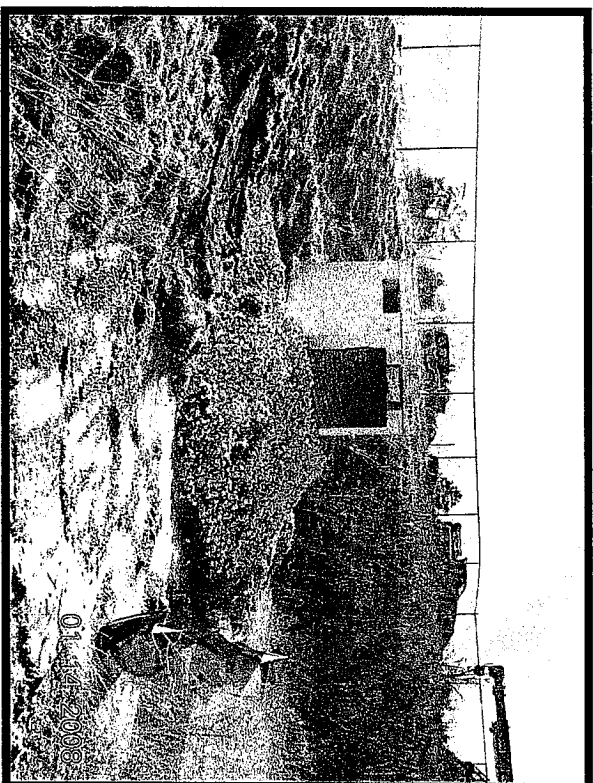
January 3, 2008  
Apison Middle/High School



January 7, 2008  
Apison Middle/High School



January 14, 2008  
Apison Middle/High School



P.O. Box 649  
Ooltewah, TN 37363  
Phone: 423-595-6502  
Fax: 423-892-8558

Date	Invoice #
12/17/2007	547

Bill To

Rentenbach  
P.O. Box 11087  
Knoxville, TN 37939-1087

	P.O. No.	Project		
	Apison High Sch...			
Item	Description	Qty	Rate	Amount
Floc Log	Installed 14 703d #3 floc logs	14	165.00	2,310.00
misc.	Installed 40ft. nonwoven filter check dam applied granular polymer to check dam and pond area	1	500.00	500.00
	Sales Tax		9.25%	0.00
<b>Total</b>				\$2,810.00

**EXHIBIT**

B

P.O. Box 649  
Ooltewah, TN 37363  
Phone: 423-595-6502  
Fax: 423-892-8558

Date	Invoice #
1/3/2008	581

[illegible]



January 7, 2008

Jennifer Innes  
State of Tennessee  
Dept. of Environment & Conservation  
540 McCallie Avenue, Suite 550  
Chattanooga, Tennessee 37402  
furthest

RE: RCI Project No. 07041 – East Hamilton School, Chattanooga, Tennessee

Dear Ms. Innes:

On January 3, 2008, we received Mr. Richard Urban's Notice of Violation dated December 26, 2007, regarding Hurricane Creek in Hamilton County, Tennessee. On January 4, 2008, we received your e-mail which extended the deadlines. Upon review of said correspondence, we respond with a plan of action as follows:

1. Cease all drilling operations immediately. All drilling was stopped on January 2, 2008.
2. Vacuum the deposited mud in Hurricane Creek with minimal disturbance per Item 1 of the Required Actions. Vacuum operations began on January 3, 2008 and should be complete by January 8, 2008.
3. Remove closest down-stream dam upon completion of initial vacuuming to allow the channel to be inspected.
4. Remove furthest down-stream dam after county inspection of removal of first dam.
5. Provide additional vacuuming after removal of dams, as needed.
6. The site contractor, who installed the sediment basin, the original standpipe and the outfall structure, under separate contract with the Owner, will seal the crack between the upper and lower portion of the outfall structure, repair any other leaks and install standpipe capable of providing the required wet storage.
7. Upon resumption of drilling operations, Rentenbach's on-site supervision will monitor drilling operations on a daily bases (several times per day) until drilling is 100% complete. Rentenbach's on-site supervision will have the authority to cease drilling operation in the event muddy discharge is detected.
8. In the event muddy discharge is detected, we will halt all drilling operations, contain any affected areas and not resume drilling until muddy discharge ceases.
9. We will utilize flocculants and other normal erosion control methods as necessary for the duration of the project.

EXHIBIT

C

tabbles

Ms. Jennifer Innes  
January 7, 2008  
Page Two

Please review this proposed plan of action and forward your comments to this office at your earliest convenience.

Very truly yours,

RENTENBACH CONSTRUCTORS INCORPORATED

Michael Powell  
Assistant Vice President

MRP:ism

xc: Gary Waters  
Justin Dumsday  
Tony Pettit